

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0049P

**Use Tax
Calendar Years 1996, 1997, and 1998**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was audited for calendar years 1996, 1997, and 1998. Taxpayer was previously audited in 1995.

Upon audit, it was discovered that the Taxpayer failed to self-assess use tax on clearly taxable items such as small tools, office supplies, janitorial supplies, subscriptions, fixed assets, contract jobs, and failed to remit sales tax collected.

Taxpayer failed to remit use tax on clearly taxable items although it had a use tax accrual system in place. In 1998 taxpayer remitted no use tax; in 1997 it remitted less than \$30 and in 1996 less than \$1700. In addition, taxpayer failed to remit all of the sales tax collected.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit report revealed that little or no use tax was paid although the taxpayer was previously audited. In addition, taxpayer failed to remit all of its sales tax collected.

Taxpayer requests the department waive its negligence penalty as a key employee who handled accurately the company's sales tax liability prior to 1996 was lost and the person who assumed this responsibility did not report the taxpayer's liability correctly due to the complexity of the taxpayer's sales tax returns and lack of experience. The taxpayer states it has since corrected the problem.

Taxpayer has not shown reasonable cause to allow the department to waive the penalty. Taxpayer should have been aware of use tax regulations after a prior audit. Sales tax is a trust tax that must be timely remitted.

FINDING

Taxpayer's protest is denied.